



# Hendry County Sheriff's Office

## General Order 11.1

<b>TITLE:</b> Complaints and Investigative Procedures	<b>SHERIFF'S APPROVAL:</b> Digital
<b>ORIGINATION DATE:</b> February 11, 2019	<b>REVISION DATE:</b> May 22, 2019
<b>RELATED REFERENCES:</b> <i>Chapter 30, F.S., §112.532, F.S., §112.533, F.S., Chapter 119, F.S.</i> <b>CFA:</b> 2.07M, 7.05, 20.01M, 20.02M, 20.03, and 20.04M	
<b>REVIEW FREQUENCY:</b> 3 YEARS	<b>DATE OF NEXT REVIEW:</b> May 22, 2022

**I. PURPOSE:** The purpose of this order is to provide procedures for complaint intake and the investigative process.

---

**II. SCOPE:** This order shall apply to all sheriffs' office members.

---

**III. POLICY:** The Sheriff's Office shall investigate all complaints against the Office or its employees in accordance with all applicable regulations and statutes.

---

### **IV. PROCEDURE:**

#### **A. Complaints**

1. Any person may make a complaint that an employee of the Sheriff's Office has engaged in misconduct; violated the law, rules, or regulations; or, violated ethical standards of conduct established by the Sheriff or prescribed by the Florida Department of Law Enforcement.
2. Initial complaints will be placed on Citizen Comment Form 300.25-01, complaints may be made in person or by other form of communication. Employees are to refer the individual to fill out the citizen comment form and a supervisor will provide assistance with information, forms, or direction. The person requesting this information is not required to provide identification or information pertinent to the complainant to obtain assistance.
3. Any Sheriff's Office employee may accept a complaint. Non-supervisory employees who accept a complaint are to immediately forward the complaint to Professional Standards Unit (PSU) or to their supervisor, if their supervisor is not available, to an on-duty supervisor who then forwards the complaint to Professional Standards Unit for tracking. Professional Standards Unit will forward to the proper supervisor for investigation of the complaint or seeks appropriate supervisory assistance. Excepting operational emergencies, it is not acceptable for a supervisor to refuse or postpone the intake of a complaint against a Sheriff's Office employee.
4. All complaints are forwarded to PSU on a complaint tracking form and determination of assignment to the involved employee's supervisor will depend on the seriousness of the allegation.

5. All complaints, once resolved are to be forwarded to the Professional Standards Unit for maintaining and archiving per Florida Statutes.
6. After review by PSU, complaints investigated by line level supervisors are generally those complaints that involve minor misconduct issues or are performance based that may be handled at the division/section level (rudeness, poor response time, speeding, etc.). If the receiving supervisor determines that the complaint does not involve improper conduct on behalf of the agency or any employee, the supervisor is authorized to resolve the situation, if possible. To do so, the receiving supervisor:
  - a. Resolves any misunderstanding or miscommunication that led to the complaint;
  - b. Corrects the problem or situation; and/or,
  - c. Ensures notice is provided to the complainant, and forwards documentation of the resolved complaint to the Professional Standards Unit (via chain of command) for file retention.
7. If the complaint cannot be reconciled at the initial supervisor level, that supervisor:
  - a. Forwards the written documentation back to the Professional Standards Unit through the chain-of-command.
  - b. The Chief Deputy will then review the complaint and investigative notes from the line supervisor. Then determine if the complaint is to be re-investigated by the Professional Standards Unit.
8. Upon receipt of a complaint, the Professional Standards Unit assesses the allegation(s), then provides notice to the Chief Deputy to determine the appropriate investigative response.
  - a. Complaints handled by the Professional Standards Unit are generally those complaints that involve serious misconduct allegations (i.e., excessive force, harassment, civil rights violations, corruption or other criminal misconduct, etc.) and/or complaints that identify a pattern of behavior that conflict with the professional standards of the agency.
  - b. Complaints assigned to other supervisory personnel are generally those complaints that involve less serious misconduct allegations (i.e., excessive tardiness, demeanor complaints, minor policy violations, etc.).
  - c. Assignment authority for all formal complaints rests with the Office of the Chief Deputy and/or Sheriff.
9. The Professional Standards Unit assigns a control number to the complaint for tracking purposes.
10. Upon receipt of a complaint for investigation, the assigned supervisor contacts the complainant to advise them of the complaint process. The supervisor also provides notice to the employee, informing him/her of the allegations. After a subject employee is noticed of a pending investigation, and until the investigation is concluded, the employee is verbally noticed at each 45-day interval of the investigation status.
11. If Professional Standards returns the complaint to the division level for investigation, it is to be completed within 30 days from date of receipt. Any extension beyond that 30 day period requires a written request by the responsible authority to the Office of the Sheriff.

12. Any statements taken from certified law enforcement or correctional officers who are the subject of misconduct allegations are taken in accordance with the provisions of Florida Statutes 112.532 (Law Enforcement Officer and Corrections Officer Bill of Rights). Investigative closure and all supporting materials of an assigned complaint to a line level supervisor is forwarded to the Professional Standards Unit through their respective chain of command.
13. Upon receipt of a completed complaint investigation, the Professional Standards Unit provides notice to the Sheriff, via Chief Deputy. Notice to the complainant and the employee(s) of the final action/disposition is made by the Professional Standards Unit as directed by the Office of the Sheriff.
14. If it becomes apparent during the assigned supervisor's official complaint inquiry that the issue involves a violation of law or serious violation of Sheriff's Office regulation, the supervisor notifies the Office of the Sheriff as soon as practical.

#### B. Relief from Duty

1. The Sheriff or Chief Deputy may relieve an employee from duty pending determination of their physical or psychological fitness for duty or pending disposition of a supervisory inquiry or an internal investigation. Relief from duty may be with or without pay. At the Sheriff's discretion, an employee may be reassigned to duty that is not related to the particular investigation. Employees who are members of a bargaining unit are relieved from duty in the manner designated in their respective bargaining unit agreement.
2. Supervisors have the authority to temporarily suspend a subordinate employee from duty for violations of law or any Sheriff's Office policy where an endangerment to the public's safety is created by the employee's action(s) (e.g., intoxication, mental stability, illness, etc.). Any supervisory suspension is **with pay**, and any such action is brought to the immediate attention of higher authority.
3. A lieutenant or above is authorized to suspend without pay an employee who was arrested for or charged with a crime upon approval of the Sheriff or his designee. An employee suspended without pay pursuant to being arrested or charged with a criminal offense may be paid from their annual leave or compensatory leave banks, not to exceed over 80 total hours of pay for each 14 day work cycle, during the investigative and appeal process. (If the employee is not subject to disciplinary action for violating the policies and procedures of the Hendry County Sheriff's Office, the annual leave used during the suspension or appeal period is returned to the employee's leave banks.)

#### C. Investigation Procedure

1. The authorization to commence a formal administrative investigation is expressly limited to the Sheriff, or Chief Deputy.
2. An employee who becomes the subject of an administrative investigation is issued a written Notice of Investigation and an Internal Investigation Warning, prior to the investigative interview, which explains the allegations and the employees' rights and responsibilities related to the investigation.
3. During the formal internal investigation, the complaint and all information obtained pursuant to investigation remains confidential per Florida Statutes 112.533, until the case is closed.
  - a. An investigation is considered active as long as it is proceeding in a timely manner with a reasonable expectation that a finding or conclusion of fact is imminent.

- b. An investigation is reasonably expected to be concluded in 45 days; however, the investigative period can last up to 180 days from the date the agency received notification of the allegation. Exceptions to the 180-day investigative period are noted in Florida Statutes 112.532.
  - c. Extensions are considered when extenuating circumstances are present, or when additional time is necessary to ensure a thorough investigation is conducted. However, 45 days after the employee was provided notice of the investigation the subject employee is to be informed of the investigation's status.
  - d. During the course of an internal investigation, the investigator assigned to the complaint ensures the complainant is aware of the process while maintaining confidentiality requirements of the law.
  - e. As provided by Florida Statutes 112.533, an internal investigation ceases to be active when the investigating authority has either:
    - (1) Concluded the investigation with a finding not to proceed with disciplinary action, or not to file charges.
    - (2) Concluded the investigation with a finding to proceed with disciplinary action, or to file charges.
    - (3) Exceeded 180 days from the date the person authorized within the agency to initiate an administrative investigation became aware of the allegation.
4. As provided by the authority of the Office of the Sheriff (Florida Statutes Chapter 30), certain examinations, tests, and/or exemplars may be used by competent authority during an internal investigation.
- a. An employee may be required to submit financial disclosure statements if the investigation involves questions of a financial nature.
  - b. An employee may be required to be photographed or participate in a line-up if it is material to a particular offense or investigation.
  - c. An employee may be required to submit to a medical or laboratory examinations, breathalyzer, urinalysis, psychological examination, handwriting exemplars, or other tests/examinations that **specifically relate** to a particular offense or allegation.
  - d. Investigations may also include requests for polygraph examinations and/or truth verification (CVSA) examinations. No employee is required to submit to examinations of this scientific nature.
  - e. As a condition of employment, all HCSO facilities, work areas, computers, furniture, filing cabinets, assigned/used Sheriff's Office vehicles, and issued equipment of any employee are subject to search and/or inspection at any time.
5. Formal internal investigations are always to be conducted with an impartial, non-biased attitude and in compliance with all applicable statutes and regulations.
6. An employee is required to respond to all inquiries made during an interview and is obligated to answer all questions truthfully. Any refusal to answer questions related to employment with the Sheriff's Office is a violation of Sheriff's Office policy and may render the employee subject to

disciplinary action. Interviews are to be conducted in accordance with an employee's respective bargaining unit agreement, if applicable.

7. While involved in an internal investigation, an employee may have an attorney (or other representative) present during an interview. This representation is confined to counseling and not actual participation in the interview. If the subject employee is a member of a bargaining unit, the bargaining unit agreement permits the employee to have up to two representatives present with them during an interview.
8. Prior to any interview involving compelled testimony from a subject sworn employee, the investigator allows the employee to review all materials pertaining to the complaint and ensures compliance with all provisions of Florida Statutes 112.532 (Law Enforcement and Corrections Bill of Rights).
9. Consistent with provisions of law (Florida Statutes Chapter 30) the Office of the Sheriff may elect to relieve any employee from duty assignment at any time. Any such enacted administrative action is communicated to the involved employee by competent authority with proper notice documenting any specific limitations or provisions therein. Administrative suspensions of employees covered by a bargaining unit agreement are to be done in accordance with said agreement, if applicable.
10. The Professional Standards Unit may direct any employee to secure their duty weapon.

#### D. Reports of Investigations

1. Upon completion of an internal investigation, the investigator prepares a written comprehensive report that includes all related materials and evidence.
2. The investigative report contains a finding or conclusion from the following:
  - a. **Not Sustained** - the investigation fails to disclose sufficient information to clearly prove or disprove the allegation.
  - b. **Sustained** - the investigation discloses that the alleged act(s) did occur and that misconduct was involved.
  - c. **Exonerated** - the investigation reveals that the alleged act(s) did occur but that the employee's actions were justified, lawful, and proper.
  - d. **Unfounded** - the investigation reveals conclusively that the alleged acts **did not** occur.
  - e. **Other/Policy Failure** - the investigation reveals that the alleged act was not misconduct, however there exists administrative concerns related to policy failure that merits attention and/or further review.
3. The report will be provided to the complainant and the affected members upon completion of the investigations.

#### E. Appeals or Grievances

1. Refer to the following sources to obtain information regarding appeals or grievances: Policy/Procedure 300.23: Appeals; Policy/Procedure 300.36: Grievances; Collective Bargaining Agreement.

#### F. Document Records

1. All files created in the process of a complaint or formal internal investigation are securely maintained within the Professional Standards Unit.
2. All sustained disciplinary actions are forwarded to Human Resources and placed in the employee's file.
3. Unless exempted by law, the file record of closed investigations arising from complaints and authorized internal investigations are regarded as public record, with access and disclosure regulated by Florida Statutes Chapter 119 (Florida Public Records Law).

---

## **V. GLOSSARY:**

**CIVILIAN COMPLAINT REPORT** – Form utilized to properly document any allegation(s) of misconduct involving the agency or its personnel when a complaint is made by a citizen/person who is not an employee of the Sheriff's Office.

**COMPLAINT** – An allegation of misconduct, violation of law, or violation of agency policy, procedure or regulation, or the ethical standards of conduct established by the Sheriff or proscribed by FDLE.

**FINDINGS OR CONCLUSION** – An opinion rendered by an investigator, supervisor, or other competent authority to summarize an investigation or inquiry.

**INQUIRY** – The preliminary review and evaluation of information related to any suspected violation of agency policy or procedure to determine whether a reasonable belief exists to warrant a more formal investigation. An inquiry by competent authority may be necessary before a formal investigation is undertaken.

**INTERNAL INVESTIGATION** – An official review and evaluation of information relative to any suspected violation of agency policy or procedure where sufficient information exists to reasonably believe that the employee(s) may have committed the violation. The findings of an investigation could lead to disciplinary action.

**REPRESENTATIVE** – An individual who appears with the employee during a formal interrogation/interview providing support and advice to the employee. This individual may or may not be a member of the agency. This individual is prohibited from participating directly during the interrogation/interview process; he/she may consult with the employee, or otherwise provide support and advice to the employee that does not obstruct or interfere with the interviewer.

---

**Your electronic signature in Power DMS acknowledges you have read this policy and understand it.**